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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Federal-State Joint Board on)
Universal Service)

CC Docket No. 96-45

Proposed Revision of Maximum)
Collection Amounts for Schools)
and Libraries and Rural Health)
Care Providers)

DA 98-972

COMMENTS OF THE
AMERICAN PUBLIC COMMUNICATIONS COUNCIL

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DA 98-872

**COMMENTS OF THE
AMERICAN PUBLIC COMMUNICATIONS COUNCIL**

The American Public Communications Council ("APCC") submits the following comments, in response to the Commission's Public Notice, DA 98-872, released May 13, 1998, on the proposed revision of 1998 collection amounts for schools and libraries and rural health care universal service support mechanisms. The Commission proposes to increase the quarterly collection rate for the schools and libraries fund from \$325 million to \$524 million, a 60% increase that brings the percentage contribution factor to more than 1.5%.

APCC opposes any increase in the schools and libraries contribution factor beyond the amounts assessed in the first quarter of 1998.

BACKGROUND

APCC is a national trade association made up of some 1,200 independent providers of pay telephone equipment, services, and facilities. APCC seeks to promote competitive markets and high standards of service for pay telephones.

Payphone service providers ("PSPs") provide service by installing payphone equipment at a location and by reselling local and long distance service. PSPs' revenue consists primarily of coins collected from callers at their payphones. PSPs' must subscribe to local and long distance service and are billed by carriers for monthly line charges (including the end user common line ("EUCL") charge and local and long distance usage charges.

For purposes of universal service, PSPs have been defined as "service providers" rather than "end users." Thus, PSPs are required to pay universal service fees. In addition, PSPs are billed by carriers for "pass-through" charges that purport to recoup the carriers' universal service fees.

APCC has pending a petition for reconsideration of the Commission's Report and Order in this proceeding, FCC 97-157, released May 8, 1997. In the petition, APCC explains why payphone services should not be subject to universal service contribution requirements. Because the Commission has not yet acted on this petition, PSPs continue to be subject to the universal service fee. APCC has an interest in ensuring that universal

service contribution obligations do not to unduly burden the provision of payphone service.

DISCUSSION

The universal service fees exacted by the Commission to date, combined with other charges recently approved by the Commission – including the increased end user common line (“EUCL”) charge and the new “PICC” charge – have had a significant and adverse impact on PSPs’ ability to provide service. The school and library fees have hit PSPs especially hard because they are assessed on intrastate and local revenue as well as interstate revenue. As noted below, the bulk of PSPs’ revenue is derived from local calls.

The schools and libraries fee combines with EUCL and PICC charges to squeeze PSPs ability to operate profitably at current rates. With the deregulation of local coin rates in October 1997, many payphone providers implemented a long-overdue price increase, most commonly from 25 cents to 35 cents per local call. Recently, as new federally imposed charges and fees have been added on, many payphone providers are finding it difficult to maintain profitability even at 35 cents per call.¹ Paradoxically, these fees

¹ Significantly, payphones do not take pennies. Thus, any increase in the local coin “drop” rate must be at least five cents per call. Indeed, it may be that the next logical “price point” for a local coin call, after 35 cents, is not 40 or 45 cents but 50 cents, because charging 40 or 45 cents would require callers to use three coins instead of two.

imposed pursuant to the 1996 Act are negatively affecting the “widespread deployment of payphones” that is a key purpose of Section 276 of the Act 47 U.S.C. 276(b).²

I. PROVIDERS THAT RECEIVE LITTLE OR NO BENEFIT FROM ACCESS CHARGE REDUCTIONS SHOULD NOT BE REQUIRED TO MAKE UNIVERSAL SERVICE FEE PAYMENTS

The Commission’s proposal to increase the quarterly collection rate, in the third quarter of 1998, from \$325 million to about \$524 million is based on the assumption that the increase in universal service payments would be offset by equivalent reductions in access charges. Public Notice at 3. Whether or not this assumption is justified with respect to long distance carriers, the assumption is not justified with respect to PSPs. PSPs have not, and will not receive benefits from access charge reductions that even begin to offset the impact of universal service payments.

The vast majority of calls at payphones are local and intraLATA coin calls. Thus, the bulk of PSPs’ revenue is local coin “end user” revenue that is subject to a contribution for the schools and libraries fund. Similarly, the bulk of PSPs’ telecommunications costs are attributable to monthly line charges – including EUCL charges – and/or local usage charges. By contrast, interstate coin traffic comprises a very small percentage of calls at most payphones. Thus, interexchange carriers’ usage-sensitive charges for interstate service make up a small percentage of PSPs’ telecommunications costs.

² while “dial-around” compensation prescribed under Section 276(b) is helping PSPs meet the statutory objective, dial-around revenues remain uncertain due to repeated adverse court decisions.

Because the school and library fund contribution is based on total end user revenue, PSPs must pay a percentage of all their coin revenue as their contribution to this fund. Access charge reductions, by contrast, affect only the relatively minuscule portion of PSPs' telecommunications costs that represent usage charges for interstate long distance service. Thus, even assuming that long distance carriers pass on to PSPs and other subscribers the full amount of access reductions, the average payphone service provider will not realize access charge savings that even remotely approach what they pay for interstate service.

Indeed, the access charge changes implemented to date have hurt rather than helped PSPs. Many PSPs have experienced increases in EUCL charges, and virtually all have incurred some form of "PICC" charge, either as a pass-through assessed by the long distance carrier or as a direct "no-PIC" charge assessed by the LEC. Because the increased EUCL charge and the PICC are flat monthly charges, their impact falls particularly heavily on PSPs, who have relatively little interstate coin traffic, and has not been offset by commensurate access charge savings.

Because the access charge savings assumed by the Commission will not significantly benefit PSPs, the Commission must not subject PSPs to increased universal service fees. Further, as discussed below, it is in the public interest to relieve PSPs (among others) from further fee payments until existing payments have been digested and the Commission has had a chance to rule on whether or not a fee should even apply to PSPs.

II. THE COMMISSION SHOULD SUSPEND UNIVERSAL SERVICE PAYMENTS UNTIL IT HAS ACTED ON ALL PENDING PETITIONS FOR RECONSIDERATION

APCC agrees with those parties that urge the Commission to temporarily stop collecting any payments for the school and libraries funds. As noted above, the universal service fee requirement is making it more difficult for payphone service providers to deploy additional payphones and even to continue operating profitably at current calling rates. The potential for universal service fees to trigger an increase in payphone calling rates is particularly ironic because payphones, in a very real sense, are themselves a source of universal service. As shown in APCC's pending petition for reconsideration, payphones frequently provide the only service available to callers who cannot afford residential telephone service, callers who are temporarily unable to reach their home or business telephones, and callers who are isolated in emergencies. Each of these forms of service is a critical aspect of the "universal service" that the Commission is trying to achieve pursuant to Section 255.

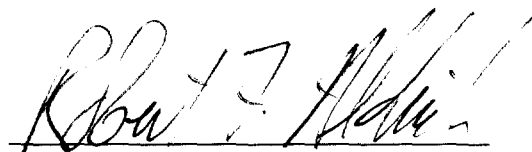
APCC has pending a petition for reconsideration requesting the Commission to rule that universal service fees are not applicable to payphone service providers ("PSPs"). At a minimum, the Commission should suspend any school/library fund payment requirement applicable to PSPs until it has ruled upon the pending petitions for reconsideration of APCC and other parties. Under no circumstances should the Commission increase the level of payments until it has ruled on the pending petitions.

**III. TO ALLEVIATE RATE SHOCK, THE COMMISSION SHOULD
PROVIDE A GRADUAL RAMP-UP OF UNIVERSAL SERVICE
FEES FOR PROVIDERS THAT ARE REQUIRED TO PAY THEM**

The Commission should also rethink its approach to the implementation of the School and Library fund. Whatever the size of the fund that may ultimately be necessary, the Commission should abandon its attempt to fully fund the program in a single year at the expense of residential telephone service subscribers and payphone callers. After ruling on the pending petitions for reconsideration, the Commission should "ramp up" the program gradually over a series of years, in order to minimize rate shock. APCC recommends that the ramp-up period should extend to at least five years. While such an extension may defer service improvements to some schools and libraries, it will give the affected groups – whether payphone callers or others – needed relief from unduly sudden rate increases as a result of flash-cut imposition of universal service fees.

Dated: May 22, 1998

Respectfully submitted,



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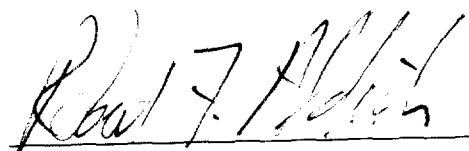
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CERTIFICATE OF SERVICE

I hereby certify that on May 22, 1998, a copy of the foregoing Comments of the American Public Communications Council was delivered by first class, U.S. mail to the following parties:

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A handwritten signature in dark ink, appearing to read "Robert F. Aldrich", written over a horizontal line.

Robert F. Aldrich